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VB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/450,073	11/29/99	BLASCHUK	0 100086.405C2

000500 HM22/1101  
SEED INTELLECTUAL PROPERTY LAW GROUP PLL  
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EXAMINER

DAVENPORT, A

ART UNIT	PAPER NUMBER
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1653

5

DATE MAILED:

11/01/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/450,073

Applicant(s)

Blaschuk et al.

Examiner

Avis M. Davenport

Group Art Unit

1653



☒ Responsive to communication(s) filed on May 8, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-33 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-33 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-33 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for compounds and methods of modulating occluding-mediated cell adhesion, does not reasonably provide enablement for methods for enhancing the delivery of a drug to a tumor in a mammal, or a method for treating cancer in a mammal, or a method for enhancing immune cell infiltration into a tumor in a mammal. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. Applicants have set forth examples starting on page 50 of the instant specification. None of the examples set forth representative examples of the methods claimed. There are no representative examples, literature examples, or other evidence or support to enable the scope of the claimed methods. There is no teaching or other guidance set forth to extrapolate the examples set forth to the methods of use in a mammal as claimed. In view of the unpredictability in the therapeutic art area and the lack of guidance set forth, one would be required to do an undue amount of experimental testing to enable the scope of the claimed invention..

Therefore, given the analysis above, it must be considered that the skilled artisan would have needed to have practiced considerable non-routine, trial and error experimentation to enable

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the full scope of the claims. Such experimentation is the antithesis of enablement under 35 U.S.C. 112, first paragraph, and said experimentation must be considered to be undue.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avis Davenport whose telephone number is (703) -308-4002. The examiner can normally be reached on Tuesday thru Friday from 9:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Christopher Low, can be reached on (703) -308-2923. The fax phone number for the organization where this application or proceeding is assigned is (703) -308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-0196.

Davenport/LR

October 24, 2000

*Avis M. Davenport*  
AVIS M. DAVENPORT  
PRIMARY EXAMINER  
GROUP 1800 1600